

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION**

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| <b>In the matter of:</b>               | ) | <b>Complaint No. R4-2008-0004</b>                 |
|  | ) | <b>Mandatory Minimum Penalties for</b>            |
|  | ) | <b>Violation of California Water Code § 13376</b> |
| <b>Harris Water Conditioning, Inc.</b> | ) | <b>and</b>  |
| <b>Ventura, California 93003</b>       | ) | <b>Order Nos. R4-2002-0093, R4-2004-0073</b>      |
|  | ) | <b>and R4-2004-0074 (NPDES No. CA0060267)</b>     |

This Complaint to assess the mandatory minimum penalties pursuant to California Water Code (CWC) § 13385, subdivisions (h) & (i) is issued to Harris Water Conditioning, Inc. (hereinafter Permittee) based on findings of violations of waste discharge requirements prescribed in Order Nos. R4-2002-0093, R4-2004-0073 and R4-2004-0074 (NPDES No. CA0060267, CI No. 6818).

**The Chief Deputy Executive Officer of the Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds the following:**

1. The Permittee operates the Harris Water Conditioning facility (hereinafter facility) located at 1371 Fleet Avenue, Ventura. The Permittee can discharge up to 0.110 million gallons per day (MGD) of wastewater at the facility. The wastewater consists of non-industrial water softener regeneration backwash water and final rinse water which the Permittee treats in a clarifier system and a selective ion exchange system and then discharges to the Arundell Barranca, a navigable water of the United States. These wastewaters are susceptible of containing biochemical oxygen demanding wastes (BOD<sub>5</sub>), copper (Cu), silver (Ag), total suspended solids (TSS), zinc (Zn), total chromium (Cr) and other pollutants which can degrade water quality and impact beneficial uses of water, and which are defined as wastes under the Porter-Cologne Water Quality Control Act (CWC § 13000 et seq.).
2. On December 9, 1996, the Regional Board adopted Order No. 96-095 which serves as the National Pollutant Discharge Elimination System (NPDES) permit (CA0060267) establishing waste discharge requirements for the Permittee.
3. On April 25, 2002, the Regional Board adopted Order R4-2002-0093 which rescinded Order No. 96-095. Order No. R4-2002-0093, including effluent limitations, interim effluent limitations, and compliance schedules was developed based upon information available to the Regional Board on April 25, 2002. Accompanying the Order was monitoring and reporting program CI No. 6818 which required higher sampling frequencies than had previously been required for a number of constituents.

4. On May 6, 2004, the Regional Board adopted Order Nos. R4-2004-0073 and R4-2004-0074. Order No. R4-2004-0073 establishes interim effluent limits and serves as an amendment to Order No. R4-2002-0093. Order No. R4-2004-0074 is a Time Schedule Order giving the Permittee interim limits for TSS. The revised limits in Order Nos. R4-2004-0073 and R4-2004-0074 were retroactive to April 25, 2002 and expired on May 30, 2005.
5. Order No. R4-2002-0093 (Part I, Section B.4., page 10) as amended by Order Nos. R4-2004-0073 and R4-2004-0074 includes the following effluent limitations for BOD<sub>5</sub>, Cu, Ag, Zn, TSS, and Cr:

| Constituent                   | Discharge Limitations |                             |                 |                             |
|-------------------------------|-----------------------|-----------------------------|-----------------|-----------------------------|
|                               | Daily Maximum         |                             | Monthly Average |                             |
|                               | Concentration         | Mass (lbs/day) <sup>1</sup> | Concentration   | Mass (lbs/day) <sup>1</sup> |
| BOD <sub>5</sub> <sup>2</sup> | 30 mg/L               | 27.5                        | 20 mg/L         | 18.4                        |
| Cu <sup>2</sup>               | 14 µg/L               | .01                         | 7 µg/L          | 0.006                       |
| Cu <sup>3</sup>               | 572 µg/L              | 0.53                        | ---             | ---                         |
| Ag <sup>3</sup>               | 4.5 µg/L              | 0.004                       | ---             | ---                         |
| Zn <sup>3</sup>               | 510 µg/L              | 0.47                        | ---             | ---                         |
| Zn <sup>2</sup>               | 120 µg/L              | 0.1                         | 61 µg/L         | 0.06                        |
| TSS <sup>4</sup>              | 177 mg/L              | ---                         | 177 mg/L        | ---                         |
| Cr <sup>2</sup>               | 20 µg/L               | 0.02                        | ---             | ---                         |

µg/L = micrograms/liter; mg/L = milligrams/liter; lbs/day = pounds/day

<sup>1</sup> The mass based effluent limitations are based on the maximum permitted flow of 0.110 MGD

<sup>2</sup> Final limit in Order No. R4-2002-0093

<sup>3</sup> Interim limit in Order No. R4-2004-0073

<sup>4</sup> Interim limit in Order No. R4-2004-0074

Any discharge containing pollutants violating the effluent limitations set in the waste discharge requirements is prohibited by CWC § 13376.

6. Among the provisions in the Permittee's waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit quarterly NPDES self-monitoring reports to the Regional Board pursuant to the authority of CWC § 13383.
7. The Permittee's self-monitoring reports noted 47 violations of Order No. R4-2002-0093 as amended by Order Nos. R4-2004-0073 and R4-2004-0074 as follows: 13 violations in 2002 occurring on 6 days; 20 violations in 2003 occurring on 12 days; 2 violations on February 5, 2004; 4 violations on February 27, 2006; 6 violations in May 2007 occurring on 2 days; and 2 violations on December 5, 2007. These violations were for effluent limit exceedances for either BOD<sub>5</sub>, Cu, Ag, Cr, TSS or Zn. The violations are identified in Table 1 attached hereto and incorporated herein by reference.

8. CWC § 13385(h) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC § 13385(h)(2), a “serious violation” is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to § 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to § 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more. Furthermore, CWC § 13385.1(a)(1) identifies a failure to file a discharge monitoring report required pursuant to CWC § 13383 for each complete period of 30 days following the deadline for submitting the report as a “serious violation.”
9. CWC § 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the permittee violates a waste discharge requirement effluent limitation in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations within that time period.
10. A portion of the penalty not to exceed fifteen thousand dollars (\$15,000) plus fifty percent (50%) of the penalty amount that exceeds fifteen thousand dollars (\$15,000) may be directed to be expended on a Supplemental Environmental Project (SEP) pursuant to CWC § 13385(l).
11. The maximum amount of administrative civil liability assessable pursuant to CWC § 13385 is \$10,000 per day for each violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

**YOU ARE HEREBY GIVEN NOTICE THAT:**

12. The Chief Deputy Executive Officer proposes that the Permittee be assessed a mandatory minimum penalty in the amount of \$138,000 for the violations described above. Refer to Table 1 for the calculation of the amount of mandatory minimum penalty.
13. A hearing shall be conducted on this Complaint by the Regional Board or Regional Board Hearing Panel (Hearing Panel) within 90 days after service of this Complaint on the Permittee pursuant to CWC §§ 13228.14 and 13323, unless the Permittee waives the hearing and pays the recommended penalty. The Permittee will be notified of the date, time, and location of the hearing at least ten (10) days prior to the hearing date.
14. The Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability in a greater amount.
15. The Permittee may waive the right to a hearing. Should the Permittee choose to waive the right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return the executed waiver to the Regional Board at 320 West 4<sup>th</sup> Street,

Suite 200, Los Angeles, CA 90013, to be received by the Regional Board by the close of business on March 5, 2008. If the hearing is waived, the following options are available to satisfy the civil liability:

- a. A check in the amount of \$138,000 (payable to the State Water Resources Control Board Cleanup and Abatement Account) shall accompany the signed waiver; or
- b. Exercising her discretion, the Executive Officer of the Regional Board may allow the Permittee to pay the civil liability of \$138,000 in twelve (12) quarterly payments with the final payment due March 31, 2011 as outlined in the Promise to Pay for Complaint No. R4-2008-0004 attached hereto and incorporated herein by reference.

In the event that the Permittee proposes to pay the civil liability of \$138,000 in twelve (12) quarterly payments, the Promise to Pay for Complaint No. R4-2008-0004 shall accompany the signed waiver and be submitted to the Regional Board by the close of business on March 5, 2008.

16. Notwithstanding the issuance of this Complaint, the Regional Board shall retain the authority to assess additional penalties for violations of the requirements of the Permittee's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
17. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code § 21000 et seq., in accordance with California Code of Regulations, title 14, § 15321.
18. Regulations of the U.S. Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.

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Deborah J. Smith  
Chief Deputy Executive Officer

February 4, 2008

**WAIVER OF THE RIGHT TO A HEARING**

By signing below and returning this Waiver, I hereby waive the right of Harris Water Conditioning, Inc. to a hearing before the Regional Board to dispute the allegations and civil liability set forth in Administrative Civil Liability Complaint No. R4-2008-0004 (Complaint) issued by the Chief Deputy Executive Officer of the Regional Board. Harris Water Conditioning, Inc. understands that this Waiver gives up the rights to contest the allegations of the Complaint and the amount of civil liability it imposes. Harris Water Conditioning, Inc. also understands that if an Administrative Civil Liability Order and Promise to Pay for Complaint No. R4-2008-0004 (Promise) is adopted by the Regional Board, payment of a total assessment of \$138,000 is due in accordance with the attached Promise.

Harris Water Conditioning, Inc. elects to pay the civil liability of \$138,000 in twelve (12) quarterly payments to the Cleanup and Abatement Account over a period of three consecutive years as outlined in the attached Promise.

I hereby affirm that I am duly authorized to act on behalf of and to bind Harris Water Conditioning, Inc. in the making and giving of this Waiver.

Harris Water Conditioning, Inc.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signed name)

\_\_\_\_\_  
(Printed or typed name)

Position/Title: \_\_\_\_\_